

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-316

July 26, 2002

FOX ISLAND ELECTRIC COOPERATIVE, INC.  
Request for Waiver Under Chapter 120 from the  
60-Day Notice to 38 Days

ORDER

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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On May 31, 2002, Fox Island Electric Cooperative, Inc. (FIEC), a consumer-owned electric utility, filed its notice with the Commission that it intended to increase its rates pursuant to the provisions of 35-A M.R.S.A. § 3502. As part of its notice, FIEC requested that the Commission waive the requirement that it provide the Commission and the Office of Public Advocate (OPA) with its notice of intent to request an increase sixty (60) days prior to the public hearing which FIEC proposed to hold on July 12, 2002. By way of an Order dated June 11, 2002, FIEC's request for a waiver was granted.

In its May 31, 2002 filing, FIEC also requested that it be allowed to put the proposed increase into effect less than 30 days from the time of filing its tariffs as generally required by 35-A M.R.S.A. § 3502(7). In our June 11, 2002 Order, we did not rule on this request. Instead, we required FIEC to inform its ratepayers of its intent to request that the rates be put into effect on less than the statutory minimum period and allowed FIEC to renew its request for the waiver of the effective date requirements after the public hearing on its requested increase.

On July 12, 2002, FIEC held its public hearing on this matter as scheduled. On July 23, 2002, FIEC filed its proposed tariff changes and renewed its request that it be allowed to put the rate increase into effect less than 30 days from the time of the filing. As part of its filing, FIEC attached a copy of its newspaper advertisement and notice to all customers and members, which informed them of its intent to place the rates into effect for service provided beginning on August 1, 2002. FIEC noted that an announcement to that effect was also made at the public hearing.

According to FIEC, two customers attended the public hearing and two other customers requested information on the proposed rate increase. None of these persons have expressed any objection to the requested effective date of the rate increase. In addition, FIEC has not received any information about any possible petition filing in connection with this rate increase. Finally, FIEC notes that the Public Advocate, who was previously consulted concerning this method of seeking customer reaction to this proposed waiver, has authorized FIEC to inform the Commission that he supports this waiver request.

In our June 11, 2002 Order, we granted FIEC's initial waiver request based on FIEC's current financial situation and need of revenues. Given these circumstances, and the lack of any customer objection to either the rate change or putting the rate change into effect on August 1, 2002, FIEC's request that its tariff filing of July 23, 2002 be allowed to go into effect on less than thirty days notice is granted.<sup>1</sup>

Dated at Augusta, Maine, this 26<sup>th</sup> day of July, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent

COMMISSIONER ABSENT:              Diamond

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<sup>1</sup>Although we decide that FIEC's waiver request is warranted in these limited circumstances, we emphasize that the 30-day notice period is an integral part of the statutory scheme by which consumer-owned utilities may change rates without Commission suspension. Such waiver requests should not become a routine practice.

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.